

AMENDED IN ASSEMBLY MAY 3, 2005

AMENDED IN ASSEMBLY APRIL 18, 2005

AMENDED IN ASSEMBLY APRIL 7, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1597**

**Introduced by Assembly Member Laird**

February 22, 2005

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An act to add Chapter 1.5 (commencing with Section 120780) to Part 4 of Division 105 of the Health and Safety Code, relating to drug paraphernalia.

LEGISLATIVE COUNSEL'S DIGEST

AB 1597, as amended, Laird. Drug paraphernalia.

Existing law, with certain exceptions, makes it a misdemeanor for a person to deliver, furnish, transfer, possess with intent to deliver, furnish, or transfer, or manufacture with the intent to deliver, furnish, or transfer, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Existing law provides an exception to this general rule by authorizing a public entity, its agents, or employees to distribute hypodermic needles or syringes to participants in clean needle and syringe exchange projects authorized by the public entity pursuant to a declaration of a local emergency due to the existence of a critical local public health crisis.

This bill would authorize a public entity that receives General Fund money from the State Department of Health Services for HIV prevention and education to use that money to support clean needle and syringe exchange projects authorized by the public entity. The bill would authorize the money to be used for the purchase of sterile hypodermic needles and syringes. The bill would require ~~the use of that money to be based upon local epidemiological statistics as to the incidence of HIV transmission through injection drug use funds allocated for that purpose to be based upon epidemiological data as reported by the health jurisdiction in its local HIV prevention plan submitted to the Office of AIDS.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares all of the  
2     following:  
3     (a) The continuing spread of the acquired immunodeficiency  
4     syndrome (AIDS) epidemic and the spread of blood-borne  
5     hepatitis pose two of the gravest public health threats in  
6     California.  
7     (b) Injection drug users are the second largest group at risk of  
8     becoming infected with the human immunodeficiency virus  
9     (HIV) and developing AIDS, and they have been the primary  
10    source of heterosexual, female, and perinatal transmission in  
11    California, the United States, and Europe.  
12    (c) According to the Office of AIDS within the State  
13    Department of Health Services, injection drug use continues to  
14    be one of the most prevalent risk factors for new HIV and AIDS  
15    cases in California. Injection drug users continue to be at high  
16    risk of HIV/AIDS and hepatitis infection in California.  
17    According to an annual report issued by the Office of AIDS,  
18    sharing of contaminated syringes and other injection equipment  
19    is linked to 20 percent of all reported AIDS cases in the state  
20    through 2003. State data suggests that over 1,500 new  
21    syringe-sharing HIV infections occur annually. The U.S. Centers  
22    for Disease Control and Prevention (CDC) estimates that it costs  
23    between one hundred fifty-four thousand dollars (\$154,000) and

1 one hundred ninety-six thousand dollars (\$196,000) to provide a  
2 lifetime of care for a person infected with HIV.

3 (d) Injection drug users are also highly likely to become  
4 infected with hepatitis as a result of hypodermic needle and  
5 syringe sharing practices.

6 (e) The Legislature has responded to the spread of HIV and  
7 hepatitis among injection drug users by adopting Assembly Bill  
8 136 (Chapter 762, Statutes of 1999), which permits localities to  
9 determine whether or not to operate clean needle and syringe  
10 exchange programs. As a result of that legislation, many  
11 localities are now operating these programs.

12 (f) These programs have been shown to significantly reduce  
13 the transmission of HIV and hepatitis among injection drug  
14 users, their sexual partners, and children. Moreover, these  
15 programs have been effective in moving individuals into  
16 substance abuse treatment programs and in reducing the number  
17 of used hypodermic needles and syringes disposed of in public  
18 places, which pose a threat to public health and safety.

19 (g) The United States government prohibits the use of federal  
20 funds to support the purchase of sterile hypodermic needles and  
21 syringes by clean needle and syringe exchange programs, and the  
22 state has not heretofore permitted the use of its funds for the  
23 purchase of sterile hypodermic needles and syringes, although  
24 current state policy, ~~as evidenced by contractual agreements~~  
25 ~~between the State Department of Health Services and local~~  
26 ~~agencies~~, allows state HIV prevention and education funds to be  
27 used for costs associated with authorized clean needle and  
28 syringe exchange programs, except for the purchase of sterile  
29 hypodermic needles and syringes.

30 (h) The ability of clean needle and syringe exchange programs  
31 to purchase an adequate supply of sterile hypodermic needles and  
32 syringes is essential to California's ability to further reduce the  
33 transmission of HIV and hepatitis and to relieve the public cost  
34 for the care and treatment of HIV disease and hepatitis.

35 SEC. 2. Chapter 1.5 (commencing with Section 120780) is  
36 added to Part 4 of Division 105 of the Health and Safety Code, to  
37 read:

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120780. A public entity that receives General Fund money from the State Department of Health Services for HIV prevention and education may use that money to support clean needle and syringe exchange projects authorized by the public entity pursuant to existing law. The money may be used for, but is not limited to, the purchase of sterile hypodermic needles and syringes. ~~The use of that money shall be based upon local epidemiological statistics as to the incidence of HIV transmission through injection drug use.~~ *Funds allocated for the purchase of sterile hypodermic needles and syringes shall be based upon epidemiological data as reported by the health jurisdiction in its local HIV prevention plan submitted to the Office of AIDS within the State Department of Health Services.*